IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.10522 of 2004

Between:

1 V. Ramalinga Reddy, S/o. Late V. Laxama Reddy,
R/o. B-254, First Avenue, Second Link Road, Sainikpuri,
Secunderabad
2 V. Srinivasa Reddy, S/o. Late V. Laxama Reddy,
R/o. B-254, First Avenue, Second Link Road, Sainikpuri,
Secunderabad
3 V. Madhumohan Reddy, S/o. Late V. Laxama Reddy,
R/o. B-254, First Avenue, Second Link Road, Sainikpuri,
Secunderabad
4 R. Ram Mohan Reddy, S/o. Late V. Laxama Reddy,
R/o. B-254, First Avenue, Second Link Road, Sainikpuri,
Secunderabad

..... PETITIONERS

AND

1 Government of A.P. rep by its Special Chief Secretary,
Revenue (Endowments-II) Department, Secretariat, Hyderabad.
2 The Commissioner of Endowments, Govt. of A.P. Tilak Road,

Hyderabad.
3 The Deputy Commissioner (G), Endowments Department, Office of

the Commissioner, Endowments, Tilak Road, Hyderabad.
4 The Person in Management-cum-Executive Officer, Sri Lakshmi

Chennakeshava Swamy Temple, Kapra Village, Keesara Mandal,

Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any appropriate Writ, Order or direction preferably a writ in the nature of Writ of Certiorari calling for the records relating to Memo No. 36821/Endts. II (1)/2003-3 dt. 10-5-2004 on the file of the 1st respondent and to quash the same as being illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently

suspend the same by directing the respondents not to dispossess the petitioners from the said property.

Counsel for the Petitioners: MR.P.VENUGOPAL

Counsel for the Respondent Nos.1 to 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.4: Mr. K. Ravi

The Court, at the admission stage, made the following:

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 10522 of 2004

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O r d e r:

The petitioners claim that since 1940, their forefathers, and after their death, they have been and are in continuous possession and enjoyment of the land belonging to respondent No.4-Temple in an extent of Ac. 3-19 gts. in Sy. No. 139, Kapra village, Keesra Mandal, Ranga Reddy District, as cultivating tenants, and in support of such claim, they filed xerox copy of the P.T. register extract. They state that though the pahanies for the years from 1955-56 to 1993-94 record their possession, the revenue authorities are not furnishing the copies of same. The petitioners state earlier when the respondents proposed to sell the land in question, they filed objections, and when they were rejected, they filed a writ petition in W.P. No. 15481 of 2003, which by order dated 5-11-2003, was disposed of directing respondent No.1-Government to treat the representation filed by them on 28-7-2003 as representation under Section 93 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Endowments Act'), and pass appropriate orders. However, respondent No.1, by the order dated 10-5-2004, rejected the said application. Aggrieved thereby, the petitioners filed this writ petition.

Heard the learned counsel for the petitioners, the learned Government Pleader for Endowments for respondent Nos. 1 to 3 and the learned Standing Counsel for respondent No.4.

The learned counsel for the petitioners submits that the petitioners and prior to them their forefathers have been in possession and enjoyment of the land in question, belonging to respondent No.4-Temple as cultivating tenants, and this evident from the revenue records and xerox copy of the P.T. register extract, and

though the petitioners being protected tenants, are entitled to be granted ownership rights over the land, yet respondent No.1 by order dated 10-5-2004, rejected their application dated 28-7-2003, which by order dated 5-11-2003, this Court directed it to be treated as one made under Section 93 of the Endowments Act, for grant of ownership rights over the land, which is illegal and arbitrary. He further submits that even an unauthorized encroacher of temple or government land is entitled to be issued notice before he is sought to be evicted, but the respondents pursuant to the order dated 10-5-2004, passed by respondent No.1, which is impugned in this writ petition, without issuing any notice whatsoever, and without following the due process of law, are proposing to sell the land by dispossessing them, which is illegal and arbitrary.

On behalf of respondent No.4-Temple, its Manager filed counter. The learned Standing Counsel appearing on behalf of respondent No.4 and the learned Government Pleader for Endowments, reiterated the counter averments. They submitted that neither the forefathers of the petitioners nor the petitioners were cultivating tenants of the lands belonging to respondent No.4-Temple, nor they were in possession thereof. He submitted that even assuming that the petitioners are tenants of respondent No.4, the tenancy laws are not applicable to temple lands, and as such, the petitioners are entitled to claim ownership rights over the land. The land is not useful for agricultural purposes, and as the income derived is very less, which is insufficient for maintaining the temple. He submitted that in view of conversion of the lands surrounding the temple lands into residential lands, it was decided to sell the land of the temple by converting into residential area, and when the land was proposed to be put to sale, the petitioners filed writ petition in W.P. No. 15481 of 2003, which by order dated 5-11-2003, was disposed of directing the respondents to treat the representation dated 28-7-2003 made by the petitioners as one under Section 93 of the Endowments Act. Thereupon, respondent No.1-Government, considered the representation of the petitioner, and rejected the request of the petitioners for grant of ownership over the land, by the impugned order dated 10-5-2004, and in pursuance of the further action directed to be taken therein, the respondents had sold the land to private parties on 5-8-2004, and no exception can be taken thereto. He, thus prayed that the writ petition be dismissed.

The petitioners though claimed that they are in possession of the land in question belonging to respondent No.4-Temple as cultivating tenants, and prior to them their forefathers were in possession of the land since 1940, they have not filed any material to prove their possession, except xerox copy of the true copy, styling itself to be an extract of P.T. register, said to have been issued by the Superintendent in the Office of the Mandal Revenue Office, Keesra Mandal, which is handwritten and neither contains his signature nor seal, and as such, no credence can be placed on it. Mere entries in the revenue records, it has been held by the apex Court in **State of H.P. v. Keshav Ram & Ors.** and **Balwant Singh v. Dowlat Singh** a learned single Judge of this Court in **Sammeta Tulasi Ram v. State of A.P.**, and by this Court in **S. Lingamaiah v. State of A.P.**, do not confer any title, and as such, even if the xerox copy of the true copy of the extract of the P.T. register is said to be genuine, and there are revenue records, evidencing possession of the petitioners or their

forefathers over the land, yet they do not confer title on them. Further, even if the petitioners are treated as tenants, yet they cannot claim ownership rights over the land belonging to respondent No.4-Temple, having regard to the judgment of the apex Court in **State of A.P. and Others v. Nallamilli Rami Reddy and Others**, wherein it was held that the tenancy laws are not applicable to the lands belonging to temples or religious institutions under the Endowments Act.

Be that as it may, a reading of the impugned order dated
10-5-2004, passed by respondent No.1-Government, purportedly in compliance of the orders passed by this Court in W.P. No. 15481 of 2003, dated 5-11-2003, would disclose that respondent No.1 rejected the claim of the petitioners for ownership over the land having regard to the fact that the Commissioner, Endowments Department, after considering the fact that the Executive Officer/Person-in-Management is supervising the lands, and the revenue records showed that land is in possession and ownership of the temple, as evidenced by the pahanies for the years 1994-95 to 2000-01, rejected the objections taken by the petitioners against their proposal to sell the land, and more so when the petitioners failed to prove that they are either inamdars or tenants of the temple. When the petitioners failed to prove that they are inamdars or tenants of the temple, no exception can be taken to the action of respondent No.1-Government in rejecting the request of the petitioners for grant of ownership rights over the land.

Inasmuch as the request of the petitioners for grant of ownership rights over the land was rejected by respondent No.1-Government after hearing them, any consequential action taken in pursuance thereof, cannot be faulted and the petitioners cannot be allowed to contend that before they are sought to be evicted from the land in question, again a separate notice has to be issued and the procedure established by law has to be followed in their eviction, and more so when it is the specific contention of respondent No.4 before the Commissioner, Endowments Department, the Government as well as this Court, that the petitioners were never in possession of the lands, and this apart, it is stated by respondent No.4 that pursuant to the impugned order, they had taken consequential steps and had even sold the lands to third parties on 5.8.2004.

In the above view of the matter, there is no merit in the writ petition, and the same is accordingly dismissed.

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N.V. RAMANA, J.

Date: 28th April, 2005.

KSR

To

1 The Special Chief Secretary,
Revenue (Endowments-II) Department, Government of A.P.

Secretariat, Hyderabad.
2 The Commissioner of Endowments, Govt. of A.P. Tilak Road,

Hyderabad.
3 The Deputy Commissioner (G), Endowments Department, Office of

the Commissioner, Endowments, Tilak Road, Hyderabad.
4 The Person in Management-cum-Executive Officer, Sri Lakshmi

Chennakeshava Swamy Temple, Kapra Village, Keesara Mandal,

Ranga Reddy District.

5 Two CCs to GP for Endowments, High Court Buildings, Hyderabad

(OUT)

6 Two CD copies

7 1 CC to MR.RAVI KONDAVEETI